

# Exhibit A

ORIGINAL

S T A T E   O F   N E W   Y O R K

-----x  
TONY W. JENNINGS,

Claimant,

-against-

CITY OF SYRACUSE,

Respondent.

-----x  
The 50-h Hearing of TONY W. JENNINGS, held on  
March 30, 2017, at the Elmira Correctional Facility, 1879  
Davis Street, Elmira, New York, before Abby C. Kohler, Court  
Reporter, and Notary Public in and for the State of New York.

A P P E A R A N C E S

For Claimant:           PRO SE

For Respondent:       CORPORATION COUNSEL  
Attorneys at Law  
Department of Law  
233 East Washington Street  
Syracuse, New York 13202  
BY: RAMONA RABELER, ESQ.

**Page/Line**

**ATTORNEY'S NOTES**



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24	(Copy of paperwork associated with	60	17
25	federal court case)		

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14                   This deposition may be sworn to by the witness  
15   being examined before a Notary Public other than the Notary  
16   Public before whom this examination was begun, but the  
17   failure to do so or to return the original of this deposition  
18   to counsel, shall not be deemed a waiver of the rights  
19   provided by Rule 3116 of the CPLR, and shall be controlled  
20   thereby.

23 IT IS FURTHER STIPULATED, that a copy of this  
24 examination shall be furnished to the attorney for the  
25 witness being examined without charge.

JENNINGS - RABELER

1                   T O N Y   J E N N I N G S, called as a witness  
2 and being duly sworn, testifies as follows:

3                   (Whereupon Exhibit Nos. 1 through 9 were  
4 marked for identification, 3/30/17, ACK)

5                   EXAMINATION BY MS. RABELER:

6                   Q     Good morning, Mr. Jennings. My name's  
7 Ramona Rabeler. I'm from the City of Syracuse. I'm an  
8 attorney for the City of Syracuse. I'm here on your Notice  
9 of Claim against the City. We have a court -- there's a  
10 stenographer here, so have you -- you mentioned you've been  
11 deposed before, or you have not?

12                  A     In a federal court, a level of federal court  
13 proceeding.

14                  Q     Okay. So was there a stenographer there? You  
15 know that you need to speak audibly when you answer so that  
16 she can take it down. If you make gestures, she can't --

17                  A     I understand.

18                  Q     -- record that.

19                  A     I understand.

20                  Q     Okay. So I'm going to be asking you  
21 questions. If you don't understand anything I've asked you,  
22 ask me to rephrase it.

23                  A     Okay.

24                  Q     Let me know; all right? The only other thing,  
25 try to wait until I finish my question, and I'll try to do

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1 the same for you, again, so the stenographer can record  
2 everything down that we say today.

3 A Okay.

4 Q Okay. You are here by yourself this morning.  
5 I want to make sure you are -- again, this has to do with the  
6 Notice of Claim that you filed against the City.

7 A Okay.

8 Q I want to make sure that's your intention to  
9 go ahead this morning on your own, or if -- because in the  
10 past, I notice that you had some legal counsel associated  
11 with an appearance before the CRB, the Citizen Review  
12 Board --

13 A Yes.

14 Q -- in the City?

15 A Yes.

16 Q So it is your intention to go ahead on your  
17 own without legal counsel this morning?

18 A Yes.

19 Q I haven't had a chance to speak to you in  
20 between the time of the filing of this Notice of Claim. Some  
21 other things have happened in-between. I believe that there  
22 was a conviction in between the time of the Notice of Claim?

23 A Yes.

24 Q So my question is whether you are still --  
25 whether you still have claims against the City, and if so,

JENNINGS - RABELER

1 what they are. So are you intending to still proceed against  
2 the City of Syracuse for anything that you mentioned in your  
3 Notice of Claim against the City?

4 A Yes.

5 Q Okay. What are you alleging against the City  
6 as the City's wrongdoing?

7 A In regards to the Syracuse Police Department  
8 on the night of the arrest and the way they went about the  
9 whole procedure. Those are my issues. My rights that was  
10 violated, my actual rights, and them not following procedure  
11 or protocol, that is what the claim is based, and then  
12 basically what they did to me as well.

13 Q Okay. What are you claiming was wrongful or  
14 illegal about what the police did to you?

15 A Well, technically they pulled up behind me for  
16 no apparent reason, blocked my vehicle off. I wasn't able to  
17 move and get away. And you know, they just came up to my car  
18 and started harassing me for no reason, asking me all kinds  
19 of questions and pulling me from my car and basically  
20 intimidating me. Scared me, I was scared. And it was all  
21 for basically no reason. And I was violated from the search.  
22 The assault that I received from the officer,  
23 Darrin Ettinger, that was his name, assaulted me.

24 Q Okay. And we'll get into the details about  
25 what happened. First, I'm going to go into your claimed

JENNINGS - RABELER

1 injuries.

2 A Okay.

3 Q You do understand -- and my understanding is  
4 that there was a hearing held as to whether there was an  
5 illegal search and seizure; is that correct?

6 A Correct. The hearing conducted --

7 Q With regard to the arrest?

8 A The court case.

9 Q With the court case, yes, not with regard to  
10 your claim against the City.

11 A Okay, correct.

12 Q But there was a hearing with regard to the  
13 charges against you?

14 A Correct.

15 Q In criminal court?

16 A Correct.

17 Q And the result of that hearing was that the  
18 illegal -- it was ruled that it was not an illegal search; is  
19 that correct?

20 A That's currently being argued right now  
21 because judgment was made in error, and it's currently in  
22 appeal in regards to that.

23 Q Okay. I just wanted to clarify that.

24 A Yes.

25 Q That's all. All right. So you indicate you

JENNINGS - RABELER

1 were injured that evening. Tell me what your injuries were.

2 A Well, once the officer pulled me from my car,  
3 you know, stuck his hands -- well, far as injuries, you know,  
4 he slammed me to the ground. I banged my head on ice in the  
5 parking lot. It was the wintertime. It was cold out,  
6 January 5th, and, you know, he was applying a lot of pressure  
7 on me by being on top of me. I can't recall if he had his  
8 knee in my back or he had his elbow in my back on top of me  
9 but, you know, I turned my head to the side, to the right,  
10 and looked, and that's when I seen his partner coming around  
11 the car. He came over and struck me in face when I had my  
12 glasses on.

13 Q Okay. Were you standing at the time that you  
14 were struck in the face?

15 A No. I was on the ground.

16 Q On the ground, okay. What are you claiming  
17 was the injury from -- was there an injury from him striking  
18 you?

19 A Yeah. I mean, as far as, like, a broken face  
20 or broken jaw, I don't believe there was no -- there was no  
21 broken bones, no.

22 Q Okay.

23 A But I was struck --

24 Q Okay.

25 A -- in the right side of my face, and, you

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1 know, it hurted. It was in violation of my constitutional  
2 rights.

3 Q How long was there a hurt from that strike?

4 A It was for -- it was for -- it was -- I want  
5 to say probably a week, maybe.

6 Q What did it feel like? Describe it for me.

7 A It hurted. I mean, it was irritation around  
8 my -- my right -- my right eye socket, like, right on the  
9 bone. Like, a whole week, if not longer, I experienced, you  
10 know, pain every time, you know, I go to put my glasses on in  
11 the morning or I touch it.

12 Q All right. So you were pointing to the right  
13 corner of your eye kind of --

14 A Yeah.

15 Q -- on the edge of the socket?

16 A Yes.

17 Q Under the -- under the brow? Right under the  
18 eyebrow?

19 A All along here (indicating).

20 Q All along the eyebrow?

21 A Right.

22 Q And under the eye?

23 A Right.

24 Q So did the officer -- where exactly did he  
25 strike you on your face? Can you describe it for me?

JENNINGS - RABELER

1 A He struck me right in my eye, my right eye.

2 Q Your right eye?

3 A Right.

4 Q Right.. Did you have any laceration or  
5 bleeding as a result of that?

6 A No, but I believe it was a little red, a  
7 little red from striking me.

8 Q How long did that redness last?

9 A It was hard to determine. When I was in the  
10 county jail, the mirrors are pretty much you get what you  
11 get. You can't see out of them.

12 Q So the pain lasted about a week for that  
13 injury?

14 A Right.

15 Q Did you seek medical attention for that  
16 injury?

17 A Yes, I did.

18 Q Where did you receive medical attention?

19 A At Onondaga Community Justice Center.

20 Q Did you receive that medical attention that  
21 same day or evening?

22 A Yes, that night.

23 Q What medical attention did you receive?

24 A Just as part of intake, coming in from intake.

25 Q What did they do to treat you?

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1 A Oh, nothing.

2 Q Did you -- did they give you an ice pack or  
3 anything?

4 A No, they didn't give me an ice pack or  
5 anything.

6 Q At any time did you refuse assistance, medical  
7 assistance?

8 A Yeah, at the scene -- or I was being  
9 questioned by a -- their superior, their sergeant, and they  
10 came up to the car and told me -- said something in regards  
11 to it's his job, he has to ask me these questions. Then he  
12 went into a, you know, started asking me questions in regards  
13 to if I was dying, and I remember I told him -- I said -- I  
14 looked at him and I said, "No."

15 And he says, "You have any injuries?"

16 And I said, "Yeah. Your officer, he struck me  
17 in my face. He punched me in the eye."

18 And that's when he asked me -- he says, "Are  
19 you dying?"

20 I said, "No."

21 He said, "Do you have any broken bones?"

22 I said, "There is no way for me to determine  
23 that, so I don't know." That was pretty much where the  
24 questions stopped.

25 And he said, "Do you need medical attention?"

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1 I said, "I feel fine besides, you know, my eye  
2 is throbbing, but other than that, no." It didn't feel like  
3 I'm dying. It didn't feel like I have any broken bone, but  
4 the officer did strike me in the face for no apparent reason,  
5 and that's what I explained to them. They never called the  
6 ambulance or anything like that. I knew I was going  
7 downtown, so I was just gonna -- I let the medical -- the  
8 medical intake people know -- excuse me -- at the Justice  
9 Center.

10 Q So at the Justice Center did someone look at  
11 your face?

12 A Yes.

13 Q They checked your injuries, the person did?

14 A Yeah.

15 Q Okay. Were there other -- was there -- is  
16 there anything else you want to tell me about that injury?

17 A Pretty much speaks for itself.

18 Q Okay. Were you wearing your glasses at the  
19 time he struck you?

20 A Yes.

21 Q Are those the same glasses you're wearing now?

22 A Yes. He broke them when he struck me.

23 Q Where did you get your glasses fixed?

24 A I never got them fixed. I've been  
25 incarcerated ever since that fight.

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1 Q Your glasses appear to be -- to me, they  
2 appear to be fine.

3 A Yeah. Along the top, I mean, she might not  
4 see it, but I can show it to you. Straight at the top, up  
5 there, to where the frame separates from (indicating) --

6 Q I can't.

7 A You can't see it either?

8 Q I have -- I have glasses as well, so it's  
9 difficult for me to see.

10 A Okay.

11 Q But they're not shattered?

12 A No.

13 Q You're still able to wear your glasses?

14 A Yes.

15 Q All right. And you were wearing them at the  
16 time that he struck you?

17 A Yes, I was.

18 Q What other injuries did you have from that  
19 evening, if any?

20 A Well, I know, you know, later on down the line  
21 I started experiencing, you know, different feelings of pain,  
22 you know, that I didn't have prior to that arrest, but they  
23 never went -- I never, you know, recorded them in regards to  
24 it being a result from the arrest that night, but I've had  
25 injuries behind my knee from where I was, you know, taken to

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1 the ground that I didn't start experiencing these pains  
2 until, you know, well after. I never -- they were there. I  
3 thought it was something minor, but they never, you know,  
4 never went away. And I had a fractured rib before and  
5 developed a callus, but I noticed after that, you know, I  
6 started having pains in those areas there that I didn't have  
7 prior to be slammed on the, you know, to being slammed on the  
8 ground from the night of January 5, 2016.

9 Q Okay. Let me go back a little bit. You said  
10 you had a fractured rib and that you developed a callus.  
11 That happened before --

12 A That happened well before, but I didn't  
13 experience any type of pains or throbbing because of it until  
14 after the night of the arrest and when I was arrested by the  
15 officers.

16 Q Okay. After the arrest, when did those pains  
17 start back? When did you start to feel those pains in that  
18 area where your rib was --

19 A After the adrenaline and everything came down  
20 and I went through the process, you know, I want to say maybe  
21 two weeks after, two weeks after my body was --

22 Q And you didn't seek medical attention ever?

23 A No. Because I mean, it wasn't really, you  
24 know, I beared with it. I beared with it.

25 Q Were there -- so I want to clarify. I'm

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1 trying to get this clear.

2 A Absolutely.

3 Q You had the eye injury.

4 A Correct.

5 Q And you told me about the rib --

6 A Correct.

7 Q -- injury. Was there another injury, any  
8 other injury that you --

9 A Just my -- my knee.

10 Q Right. Let me ask about your knee. What  
11 happened with your knee?

12 A Still to this day it bothers me. I mean, when  
13 I was slammed -- when I was slammed, I came down pretty hard  
14 on my frontal, and that's how I hit my, you know, hit my face  
15 on the ground and my knee and everything hit the ground.

16 Q Okay. On your face, there was a part where  
17 you struck your eye?

18 A Correct.

19 Q Was there another injury on your face when you  
20 went down, or that was kind of the same injury?

21 A No. I hit the left side of my face when I was  
22 took down to the ground. I hit my face on the ice in the  
23 parking lot on the ground. It was cold out; it was ice down  
24 there. I didn't have no injuries on the side of my face.

25 Q On the left side?

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1 A On my left side.

2 Q Okay.

3 A When I turned to look at the officer,  
4 Darrin Ettinger, that was coming around the back end of my  
5 car, the rear of my vehicle, come around to assist him, his  
6 partner, Jeremy Decker, kneeled down on one knee and got down  
7 and struck me with his right -- his right hand, closed fist,  
8 to my right eye socket.

9 Q So the injuries to your head or your face  
10 after that accident was really to that eye socket?

11 A Correct.

12 Q Not on the -- not on the left side of the  
13 face?

14 A Correct. I was fine from, you know.

15 Q The left side of the face was fine, it was the  
16 eye socket that was the problem?

17 A Correct.

18 Q You said there was an injury to your knee?

19 A Correct.

20 Q Did you feel -- what was the injury that  
21 night?

22 A I can't say for sure. My body at the time --  
23 like I said, I didn't know all of this until, you know,  
24 couple weeks later when I started noticing different pain,  
25 but I beared. I never reported those injuries upon intake or

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1 to the officer's supervisor the night of the arrest. I  
2 never -- I never did that. But these are something that I  
3 noticed my body started making changes and feeling the  
4 effects after the night of that arrest on January 5th. So  
5 no, they was never reported as, you know, far as for the  
6 medical department at the Justice Center or here. But the  
7 eye injury, I did let them know about.

8 Q So the eye injury is the only injury you  
9 reported at the medical center the entire time that you were  
10 at the Justice Center?

11 A Correct. Whether he reported it or not or  
12 mentioned that, I let them know, and I let the officer  
13 supervisor know as well.

14 Q So at some point you did make a complaint  
15 about these injuries, you say?

16 A Not about the knee.

17 Q Not about the knee or the rib?

18 A Or the rib, no. Only the eye.

19 Q Only the eye?

20 A Correct.

21 Q And for the eye, someone looked at you and  
22 you --

23 A Correct.

24 Q -- did or did not receive treatment?

25 A Correct.

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1 Q Okay. So the person looked at you and then  
2 you received no treatment. Is that what happened?

3 A Correct, at the Justice Center.

4 Q At the Justice Center.

5 A Right.

6 Q All right. Let's get into the night of the  
7 incident. Where were you just prior to the arrest?

8 A Home.

9 Q Where is your home?

10 A At the time I was staying at 119 Dewey Ave.,  
11 and that's the city's west side almost like you're headed  
12 towards Solvay. If you're from Syracuse, you're familiar  
13 where the school SAS is or Harrison Bakery by any chance off  
14 of West Genesee, that is.

15 Q Okay.

16 A It is right there behind Harrison Bakery.

17 Q So from there you ended up at Radisson Court?

18 A Radisson.

19 Q So how did that happen?

20 A I received a phone call from a friend of mine.  
21 He asked me for a ride, and I left home, came down there to  
22 the Pioneer Homes where he was at. He lived at Radisson  
23 Court at the time with his girlfriend at the time. Came down  
24 there, give him a ride to the gas station to help him work on  
25 his car, needed a ride to get to his vehicle and connect

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1 wires to the batteries and put some air in the tire and get  
2 the car moved back over to the parking lot to where his  
3 girlfriend lived at in Pioneer Homes.

4 Q Okay. I'm confused. He lived at Pioneer  
5 Homes?

6 A Correct.

7 Q Is Radisson Court in Pioneer Homes?

8 A Correct.

9 Q So you drove -- where's the gas station?

10 A From where he's at -- where he was at in  
11 Pioneer Homes, it's right on South Salina Street, pretty much  
12 the next projects over. You got Central Village, that's the  
13 Pioneer Homes, then you've got Central Village. Right on the  
14 front side of Central Village is Salina Street. One of those  
15 gas stations is where I took him to.

16 Q First you went to the gas station with him?

17 A Yeah, with him. After I came down there and  
18 picked him up, got him in the car with his tools, then we  
19 went to the gas station, filled up his gas can, and we headed  
20 over to his vehicle.

21 Q Where was his vehicle?

22 A Off of Burt Street. It was behind the gas --  
23 not the gas station, but it's in the same area. Basically  
24 it's, like, behind the gas station. House of Hair, it's  
25 called, it's on Burt Street right by Syracuse Frames, if you

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1 know where that is --

2 Q So did you go --

3 A -- State and Burt.

4 Q State and Burt?

5 A Like Burt Street.

6 Q Did you go from the gas station to his  
7 vehicle?

8 A Yes.

9 Q What happened at his vehicle?

10 A What happened at his vehicle?

11 Q If anything.

12 A He began working on his car, trying to get it  
13 started, getting gas into the car and trying to put air in  
14 there because he had the plug, the inflated -- it's like a  
15 lighter you plug into your car in your car lighter, and then  
16 you can pump air into a football, basketball, or tire, and he  
17 was using that and he didn't have all the right tools that he  
18 needed to connect the wires back around the battery -- the  
19 battery properly. So we stayed there for a little bit of  
20 time while we worked on it. And, you know, he was telling me  
21 he was fine, that I could leave him, but I'm like, "It's  
22 cold. I'm not going to leave you. I'll give you a ride and  
23 make sure your car stays running to get all the way back  
24 around to the Pioneer Homes, you know what I mean, that you  
25 make to back to where I got you from." So that's it.

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1 Q About what time was that at?

2 A I left home probably, like, around -- around  
3 five, I want to say. And this had to be, like, maybe around  
4 a little after five, 5:20, because he was -- he was -- he was  
5 dealing with that car for a minute back there, trying to get  
6 it started, get the battery on, get the wires back around the  
7 battery, putting air in the tires. We was there for a little  
8 while because the arrest happened around 6:40.

9 Q So after you were there with him with his  
10 vehicle and he couldn't get it started --

11 A Correct.

12 Q -- what did you do next?

13 A I took him back home.

14 Q You took him back home?

15 A Back home to Radisson Court in the Pioneer  
16 Homes.

17 Q And that was at about what time?

18 A This had to be, like, maybe around 6:30-ish,  
19 maybe, because we sat there talking in the parking lot inside  
20 my car for maybe about a hot five minutes, maybe.

21 Q Do you recall what --

22 A If that.

23 Q Do you recall what you were talking about in  
24 the car?

25 A I remember letting them know we was just

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1 talking, that's it. Talking, listening to light music, then  
2 he had to get his gas can in my car, and I was ready to get  
3 back home to go watch the game. So I told him, I said,  
4 "Let's get the gas can out of my car." He said he was going  
5 in the house anyways, so got out, took his gas can out, and  
6 that's what happened. But it was all probably, maybe, about  
7 five minutes we was sitting in the car talking.

8 Q And what kind of car is your car?

9 A It was a 2003 Acura CLS, two-door, black.

10 Q The person you were with, what's his name?

11 A Willy Jones.

12 Q What happened next?

13 A He got out of my car, took the gas can out,  
14 sat it on the curb, and was getting the rest of his tools out  
15 of the back, and was sitting on the hood of my car, and he  
16 turned --

17 Q When you say he was -- he got his tools out?

18 A Correct. He sat on the box to the air  
19 inflatable thing that you plug into the charger that I was  
20 telling you. He sat that on the hood of my car and had the  
21 gas can, he sat that up on the curb, because where I was  
22 parked, the curb was right here once he got out (indicating).

23 Q Were there any other tools he had with him?  
24 What were they?

25 A Needle-nose pliers, I think that's what they

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1 were, needle-nose pliers, because when you can't get the grip  
2 that he needed to get the screw up to get the wire back  
3 wrapped around the battery to tighten it back on, he didn't  
4 have the right tool.

5 Q Was that it, those three tools, or did he  
6 have --

7 A He probably had more, but I didn't see them.  
8 Besides, you know, the needle-nose pliers that I believe he  
9 was using to try to get the bolt -- the nut loose on the  
10 battery to hook the wire around.

11 Q All right. So he took the gas can out?

12 A Took that out.

13 Q And set that where?

14 A On the ground.

15 Q Was it on the curb or --

16 A It was on the curb.

17 Q And then he took something else out and put it  
18 where?

19 A He took the box -- the charger that you put  
20 the air in the tires, that's what he was using it for, to put  
21 the air in the tires, sat that on the hood of my car.

22 Q On the -- when you say "the hood," do you mean  
23 the top of the car?

24 A The roof, the roof of my car.

25 Q And then what did he do?

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1           A     He looked over, and all he said was, "Oh,  
2     shit." Excuse my language.

3           Q     Okay. He said, "Oh, shit," and then what  
4     happened?

5           A     The officer pulled up, lights out on their  
6     car, pulled -- I -- because the way the parking lot is, if  
7     you can tell from the pictures, the way you pull into the  
8     Court -- it's a funny angle. How can I put this? Anyways,  
9     my car is parked. They pulled directly up behind my car,  
10    blocked my car. No lights on on any police cruiser.

11          Q     Okay. Hold on. Your car is parked kind of  
12    perpendicular to the curb; is that right?

13          A     Correct.

14          Q     Did they pull behind you, like with the front  
15    of their vehicle behind you, or was their car kind of --

16          A     Completely.

17          Q     So would have been a "T"?

18          A     "T" exactly.

19          Q     And if you had an accident, it would have been  
20    a T-bone kind of thing?

21          A     T-bone; correct.

22          Q     They pulled behind you?

23          A     Correct.

24          Q     So their -- so essentially their passenger  
25    door around that --

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1 A Their driver door.

2 Q Driver door would have been behind your car?

3 A Completely behind my trunk, trunk of my  
4 vehicle. T-bone, how you said.

5 Q Okay, okay, all right. So they pulled behind  
6 you and then you were describing it to me.

7 A Right.

8 Q Go ahead.

9 A No lights on their police car, and soon as  
10 they pulled up, they blocked me off. They pulled up, blocked  
11 my car off, they jumped out of their police cruiser.

12 Q Hold on one second. Were there any other cars  
13 in that lot?

14 A Yes.

15 Q About how many other cars were in that lot?

16 A I don't know. In that lot at the time, I want  
17 to say maybe at least one, two, three, five, six -- maybe 15.

18 Q Okay.

19 A It could have been more.

20 Q Was there a car parked on either side of you?

21 A Correct.

22 Q There was?

23 A Correct.

24 Q In the parking spot next to you was there a  
25 car?

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1 A Correct.

2 Q On both sides?

3 A Yes.

4 Q Do you remember what those cars looked like?

5 A One was a truck and the other was a car. It  
6 was a truck on my left-hand side. I can't remember what kind  
7 of car was on my right-hand side, but it wasn't a truck. The  
8 truck was on my side.

9 Q Do you remember the colors of those?

10 A No, I don't.

11 Q So tell me what happened.

12 A They jumped out of they car immediately, and  
13 they run at my friend, Willy Jones.

14 Q When you say "they," both officers?

15 A Darrin Ettinger and Jeremy Decker.

16 Q So they both jumped out --

17 A Yeah.

18 Q They both jumped out of the police vehicle?

19 A Correct.

20 Q Okay. Go ahead.

21 A It was two officers.

22 Q Two officers?

23 A They jumped and ran immediately to  
24 Willy Jones, and they started questioning him and searching  
25 him, digging inside of his pants, going inside of his pants

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1 pockets and just question after question in regards to, you  
2 know, gang activity, guns, drugs, all the while -- all the  
3 while while they're searching him, didn't ask him for  
4 identification or anything. And they pretty much  
5 roughhousing him, throwing him up against my car for no  
6 reason, and they even didn't know what --

7 Q Do you know who did -- did one of them do  
8 that?

9 A Both of them, both of them, both officers,  
10 Jeremy Decker and Darrin Ettinger.

11 Q Did they do it at the same time or --

12 A Yes, ma'am.

13 Q Both had their hands on him at the same  
14 time --

15 A Correct.

16 Q -- or did one do it then the other did it?

17 A No, at the same time.

18 Q What were you doing at that time?

19 A I was sitting in the driver side of my car  
20 looking through the open car door watching them.

21 Q Did you say anything?

22 A No.

23 Q Did you hear Willy -- is that his name?

24 A Willy, yes.

25 Q Did you hear him say anything?

## JENNINGS - RABELER

1 A Yeah, yeah.

2 Q What did he say?

3 A He's was saying he not doing nothing. He was  
4 like, he don't have anything on him. Kept repeating it.  
5 Kept repeating it over and over.

6 Q Do you remember anything specific that the  
7 police officers said to him?

8 A Yeah.

9 Q What did they say? Or if you can identify  
10 which one said it, if you can't don't, but --

11 A Yeah. What was said, but I picked up what was  
12 being said, you know, "What are you doing? What do you have  
13 on you? You guys got drugs on you? You guys got guns on  
14 you? You got any -- what yous doing? Yous getting high?"  
15 Like telling me, be honest with me what you guys was doing.  
16 Like, "What you doing down here?" You know, he went on with  
17 the questions.

18 Q Now, you said that Willy's girlfriend lived in  
19 Pioneer Homes?

20 A Correct.

21 Q Do you know her address at Pioneer Homes?

22 A No, I don't.

23 Q Do you know her name, what her name was?

24 A No, I don't.

25 Q How long has he lived there?

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1 A I'm not sure.

2 Q How long have you known Willy?

3 A Since I was a child, probably maybe around  
4 seven maybe, six, seven.

5 Q When you were six or seven years old?

6 A Yes.

7 Q How do you know him?

8 A He went to high school with my older brother.  
9 I was -- actually, I used to live down in Pioneer Homes when  
10 I was younger. It -- I was born and raised down there,  
11 so ...

12 Q So had he lived with his girlfriend in Pioneer  
13 Homes?

14 A Correct. I moved. My mother moved out of the  
15 neighborhood in 1992 because of an apartment fire we moved  
16 out of there. But that's from 1982 as far as I can remember  
17 to 1992 I lived in Pioneer Homes.

18 Q But he didn't always live there, Willy didn't  
19 always live there, did he?

20 A Yes, he did.

21 Q In different apartments, or in the --

22 A Yeah, different places. Like, his mother once  
23 lived on Townsend Street, and that's in the Pioneer Homes as  
24 well. When he was younger, he was, you know, born and raised  
25 and from the area as well, lived down there, still lived down

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1 there at the time of my arrest. But me, I've been moved out  
2 and staying on my own out of 119 Dewey Ave. at the time.

3 Q Was he living at -- you don't know what  
4 apartment he lived in?

5 A If I could see the building, like, I don't  
6 know the number right off the bat, but from memory, I know  
7 the exact apartment that he was living in. I don't have  
8 photos to -- I can point right to it and show you exactly  
9 where it's at, but as far as numbers, I -- I don't remember.

10 Q Well, there's Radisson Court?

11 A Mm-hmm.

12 Q That's the parking lot?

13 A Right. There's Dablon on the other side.

14 Q Okay. Was it -- was it a building -- was it  
15 in the building right there where Radisson Court is?

16 A It's two buildings -- four buildings in  
17 Radisson Court, and it's two on an angle, like an "L" shaped  
18 connected on this side, on your left-hand side when you pull  
19 into the parking lot (indicating). And there is another --  
20 actually, there is five. It's five buildings in Radisson  
21 Court. You got another one that's angled on the other side,  
22 and then you have a one -- no, there is six. One, two,  
23 three, four -- no, it's only four. I'm sorry.

24 Q Okay.

25 A There is only four.

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1 Q Were you parked right in front of the building  
2 where he was living?

3 A No. Because you have rows of complexes, like  
4 short -- not buildings, high-rises. Those high-rises I'm  
5 telling you about, that is in the Court as well. He stayed  
6 in the complex, like the duplex. There's an upstairs and  
7 there's a downstairs.

8 Q Okay.

9 A He said upstairs.

10 Q Okay. About how far away were you from where  
11 he -- his apartment was?

12 A Because of the parking spaces and I wasn't  
13 able to park exactly right in front of his -- his residence,  
14 I had to park, you know, a little further up, soon as you  
15 pull into the Court.

16 Q So --

17 A When you --

18 Q Was it about a block away? Was it --

19 A No, it wasn't a block. I mean, probably the  
20 distance from here -- from here to maybe where the officer  
21 is, or maybe right to that corridor right there is about the  
22 distance (indicating).

23 Q Fifty feet?

24 A Yeah.

25 Q Fifty feet, okay. So while you're sitting in

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1 the car, then what happens? Willy is outside the car, the  
2 police show up. What happened next?

3 A They're jostling him, they going through his  
4 pockets, they digging inside of his pants, and I'm leaning  
5 over in my car, and I'm, you know, looking out the passenger  
6 door, and I'm watching them, and every now and then they keep  
7 flashing lights through the car at me. So I see it coming  
8 through my back windshield. I believe it was probably  
9 Jeremy Decker. He was the one that was assisting  
10 Darrin Ettinger with the search of Willy Jones. So every now  
11 and then a flashlight would come through, going through my  
12 back seats and going over the back of my head or whatever,  
13 and I'm watching what's was going on through the passenger  
14 door and I decided to get out of the car. As soon as I  
15 opened the car door, I go to get out, Jeremy Decker runs from  
16 around Willy Jones, and Darrin Ettinger comes around on my  
17 side and jumps into the doorjamb so -- blocking my path. I  
18 can't get out of my car.

19 Q Have you -- before this incident, have you  
20 ever been pulled over for a traffic stop?

21 A Yes.

22 Q Have you ever been told not to exit the  
23 vehicle before?

24 A No.

25 Q Okay. So you tried to exit the vehicle,

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1 Darrin Ettinger runs around --

2 A No.

3 Q No?

4 A Jeremy Decker.

5 Q Jeremy Decker runs around.

6 A Right. Jumps in the doorjamb of the car.

7 Q Jumps. So he's on the outside of the door so  
8 that you can --

9 A No. Basically he's on the inside of the -- my  
10 car door's open. I'm going to get out --

11 Q And he's right there.

12 A -- but I can't get out because he's right  
13 there in front of me blocking me.

14 Q Okay, all right. Then what happened?

15 A He just immediately started asking me all  
16 kinds of questions, "What are you guys doing here? You got  
17 dope on you? What, are you getting high? You got guns?  
18 You're in a gang? What's going on? Who lives down here?"  
19 Just asking me a bunch of questions, everything except for  
20 license and registration, so ...

21 Q He asked you those questions? What did you  
22 respond?

23 A I told him wasn't nothing go on, that my  
24 friend lived there, I was giving him a ride. Told him, "You  
25 can smell the fumes in the car. Gave him a ride to work on

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1 his car. I was dropping him back off."

2 "Lived there?"

3 "No, I don't live there. He lives here."

4 "Oh. What are you guys doing?"

5 "Nothing. Minding our business," is what I  
6 told him.

7 "You got guns on you? You got drugs on you?"

8 "None of your business, no, like, I didn't do  
9 anything wrong. Why did you -- what's the reason that you  
10 pulled up behind me blocking my car off?"

11 Q Then what happened?

12 A He asked me if I had ID on me, and I told  
13 him -- I said, "No. I got a driver's license."

14 He said, "Well, that's an ID." Said, "Why  
15 don't you give that to me?"

16 I said, "It's in my back pocket in my wallet.  
17 Would it be okay if I go in my wallet and get it for you?"

18 He said, "Yeah."

19 I went and reached back into my pocket, got my  
20 wallet out, gave him my driver's license. He looked at it,  
21 flashed his flashlight on it, he's just looking at it. So I  
22 asked him, I said, "My registration and insurance -- I got a  
23 registration and insurance card in the glove compartment.  
24 Would it be all right if I get that for you?"

25 He looked at the license, at my driver's

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1 license, and he said, "Yeah, why don't you go ahead and do  
2 that for me." So I reached over, went in my glove  
3 compartment, got my registration and my registration form and  
4 insurance card form, and I handed it to him through the open  
5 car door. And he -- he looked at it, took my license, put it  
6 in his top pocket -- put my driver's license in his top  
7 pocket, and put everything else on the hood of my car and  
8 told me -- he said, "Step out of the car." And he never ran  
9 my name or checked to see if my license or registration or  
10 anything was good.

11 Q When you say "the hood" of the car, you mean  
12 the roof of the car?

13 A Yeah, the roof. I'm sorry. You got the hood.  
14 You got the roof. You got the trunk. I'm sorry.

15 Q He asked you to step out?

16 A Yes. He told me to step out.

17 Q Told you to step out.

18 A Correct.

19 Q Then what happened?

20 A You know, you're hesitant at first because  
21 it's like, well, what is this all about? So I step out of  
22 the car. So I stepped out of the car. He said, "Turn  
23 around. Place your hands on the hood -- on the roof of the  
24 car."

25 Q When you say you were "hesitant at first," did

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1 you do anything to indicate that you were hesitant?

2 A I mean, I probably stuttered a second in  
3 getting out and I asked him a question, like -- like, "What  
4 do you want me to get out of the car for? Like, what did I  
5 do wrong?" So it was that type of stutter with the question,  
6 but I got out of the car because I was intimidated. I was  
7 coerced. I was under the impression that, you know, these  
8 officers -- and I didn't want nothing bad to happen to me.  
9 So I stepped out of the car, turned around, placed my hands  
10 on the roof of my car, and he began searching me.

11 Q What did he do to search you?

12 A Well, what he was supposed to do was pat frisk  
13 me if I wasn't under arrest, but instead of doing that, he  
14 was going inside of my pockets, squeezing the top part of my  
15 coat pocket on my army jacket, squeezed it, went inside the  
16 pocket. Squeezed this one, went inside the pocket, and I  
17 said, "Officer, what reason is you going inside of my pockets  
18 for? Am I under arrest?"

19 Q So you just -- you indicated he squeezed the  
20 front coat pockets on your chest?

21 A He squeezed it first, then he sticks his hand  
22 inside.

23 Q So on your left-hand side first, then on the  
24 right-hand side?

25 A Then on the right.

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1 Q All right.

2 A He continued that through my jacket, and the  
3 whole time I'm asking him, "Why are you going inside of my  
4 pockets? Am I under arrest?" And he just wouldn't say  
5 anything, and he was refusing, you know, refused to answer  
6 me. And he got to -- he got to the lower part of my jacket,  
7 my army jacket, and he lifted the coattail and took his hand  
8 and he ran all the way around inside my waistline and went  
9 around to the front and then came back. Well, excuse me.  
10 Before we get to there, he grabbed my pockets, squeezed it --

11 Q Which pocket? What are you talking about?

12 A My right pants pocket.

13 Q Which is where on your pants?

14 A This side (indicating).

15 Q Okay.

16 A Over here, this side (indicating).

17 Q All right.

18 A So he got in my pants pocket, he squeezed it,  
19 then he sticks his hand in it.

20 Q Okay. You're talking about -- this isn't a  
21 cargo pants pocket like on the lower leg, it's your -- it's a  
22 regular pocket below your waistline?

23 A Correct. Levi jeans.

24 Q On your right thigh, essentially?

25 A Correct.

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1 Q Hip area; right, yes?

2 A What?

3 Q Is this your hip?

4 A Yes. What is the question?

5 Q If that was the pocket, below the waistband on  
6 your right hip area.

7 A Yes.

8 Q Go ahead.

9 A He squeezed my pocket, he sticks his hands in  
10 there. I'll telling him -- I'm saying, "Officer, like what  
11 are you doing? Like you -- you out of line."

12 So he tells me -- he says, "You seem like you  
13 nervous."

14 I said, "Nervous, you're -- am I under arrest?  
15 Like, what reason are you searching inside my pockets?" He  
16 never told me if I was under arrest.

17 He tells me, "I seen you guys pull up. I see  
18 you guys, you know, sitting in the car, and, you know, you're  
19 making further movements, it's -- it has to be something  
20 going on."

21 So I told him, I said, "Ain't nothing going  
22 on."

23 "You seem like you acting real nervous to me.  
24 You acting real nervous." That's when he lifted my coattail,  
25 grabbed my pants, and he stuck his hands all around from the

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1 side all the way to the front.

2 Q Around your waist?

3 A Around my waist. Then he came and stuck his  
4 hands down the backside of my pants, side of my pants, was  
5 moving his hand around between my -- my buttocks, and I told  
6 him -- I said, "You're all the way out of line. You're  
7 violating me." I said, "This is unnecessary," and I turned  
8 around. He still had his hands inside my hands. I turned  
9 around --

10 Q So you started to turn around and face the  
11 officer then --

12 A Yes.

13 Q -- at that point?

14 A Yes. And he grabbed me, slammed me down to  
15 the ground.

16 Q Tell me what happened after he threw you to  
17 the ground.

18 A He threw me to the ground and immediately as  
19 soon as I hit the ground, I hit my -- my head on the ground.  
20 It was cold. It was ice right there in that area, but I hit  
21 the ground immediately. I knew -- I threw my hands right  
22 behind my back. I didn't want no -- excuse me. I didn't  
23 want no, you know, misinterpretations about anything. I had  
24 my hands behind my back, and he had them. But for some  
25 reason, he refused -- it's like he didn't get his handcuffs

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1 out to do anything, and that's when Darrin Ettinger ran from  
2 around the other side, the passenger side of my car with  
3 Willy Jones, came around, then he got down, kneeled down on  
4 one knee on the side of me. I'm trying to think. I can't  
5 tell what angle that is there, but I'm facing towards the --  
6 I'm facing towards the -- like, you going to go out of the  
7 parking lot, but when I turned to look while I'm on the  
8 ground -- I can't really explain the angle to you  
9 (indicating). I don't have the, you know, the photos to show  
10 you.

11 But while I'm on the ground, he comes around,  
12 he kneels down on the side of me, but I'm angled, like, away,  
13 because when I turned around, that's the angle he slammed me  
14 to the ground, facing out towards the parking lot. That's  
15 when Darrin Ettinger came around, kneeled on the side of me,  
16 and he struck me in the face with a closed fist.

17 Q Okay. Now, who put -- he knelt down. He  
18 didn't put his knee in your -- in the back of your knee?

19 A No. That was Jeremy Decker.

20 Q And when --

21 A I don't know if it was a knee or an elbow, I  
22 said, but it felt like it could have been either, either one,  
23 because the pressure that I was getting.

24 Q Okay. So that happened at what point? When  
25 was that elbow or knee in your --

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1           A     When he was on -- Jeremy Decker was on top of  
2 me.

3           Q     Okay, all right. Tell me -- finish the rest.  
4 What happened next?

5           A     Yeah. He slammed me. I threw my hands behind  
6 my back, Darrin Ettinger ran around, struck me in the face,  
7 and I turned and looked up. He struck me in my face, and my  
8 glasses turned and hit the ground. I believe that's how they  
9 came separated from the lens -- came separated from the  
10 frame, but he picked me up -- they both picked me up, put me  
11 back on the -- the passenger door. I mean -- excuse me --  
12 the driver's side door of my car, up against my car, and he  
13 continued to search going inside of my pockets.

14          Q     And then what happened?

15          A     I was arrested. He went inside of my left  
16 pocket, and that's where he found contraband inside of my  
17 left pants pocket.

18          Q     Did anyone else show up to this arrest, or was  
19 it just the two police officers?

20          A     No, it was probably like 15 cars that was --  
21 cop cars that was down there in the area that came down  
22 there. I believe two supervisors maybe. It was -- it was --  
23 it was a nice amount of officers down there.

24          Q     Did you have contact with any other officers  
25 down there at the time besides -- it was Darrin Ettinger

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1 and --

2 A Just those two and then whatever sergeant that  
3 came and was asking me the questions and taking pictures of  
4 me.

5 Q Okay. So a sergeant came and he asked you  
6 questions. What did he ask you?

7 A Ask me -- said, "Are you dying? You got  
8 broken bones? And do, you know, medical -- do you need to go  
9 to the hospital?"

10 Q What did you tell the sergeant?

11 A He asked me, said, "Are you dying?"

12 I, you know, looked at him and laughed and  
13 said, "No."

14 "Do you have any broken bones?"

15 I said, "I don't know. I don't feel like it,  
16 like, it's just that I'm a little sore, my eye is a little  
17 sore from your officer punching me in the eye."

18 And he said, "Do you want to go to the  
19 hospital?"

20 I told him, "No."

21 Q Okay. Was that the last contact you with had  
22 with -- well, from there, what happened? Were you placed in  
23 a police vehicle, or how did you --

24 A Yeah. After he conducted his search on me, I  
25 was placed in the back -- in the back seat of their cruiser,

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1 the police car.

2 Q Okay. That was before or after you talked to  
3 the sergeant?

4 A No. I talked to the sergeant when I was  
5 inside of the police vehicle.

6 Q Okay. So you were placed in the police  
7 vehicle, and then you had your conversation with the sergeant  
8 inside the police vehicle?

9 A From the backseat, yes.

10 Q I'm showing you a photograph that's been  
11 marked Exhibit 1. Do you recognize that photograph or  
12 recognize --

13 A I recognize myself, yes.

14 Q Okay. Do you know when this photograph was  
15 taken?

16 A Assuming January 5th, 2016.

17 Q Is that how you appeared on that night?

18 A Yes.

19 Q Is that what you were wearing?

20 A Yes.

21 Q You mentioned that somebody took photographs  
22 of you, a police officer. Do you recall which police  
23 officer?

24 A No.

25 Q Was this a sergeant, or a different officer?

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1           A     I'm assuming it was a supervisor. It was a  
2 sergeant, but like I said, it was, like, 15 other cop cars  
3 that was out there.

4           Q     Okay. Does this show you -- was this picture  
5 taken before or after you were brought down to the ground --

6           A     This is after.

7           Q     -- or struck? This was after?

8           A     Yes.

9           Q     And those are the glasses that you were  
10 wearing that night?

11          A     Yes.

12          Q     I am showing you Exhibit 3. That's also a  
13 photograph. Can you tell me what that shows?

14          A     My right side of my face. I believe that's my  
15 right; right?

16          Q     Is that the side of the face that you were  
17 struck on?

18          A     Yes.

19          Q     Can you just mark for me where your face was  
20 struck by the officer, just draw a nice circle around it?

21          A     (Witness complies.)

22          Q     And you want to put your initials, like, right  
23 down by the -- underneath --

24          A     (Witness complies.)

25          Q     Thank you. Is that how you appeared after you

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1 were struck?

2 A Yes.

3 Q Yes. Is that how your glasses appeared after  
4 you were struck?

5 A I asked the officer to straighten them on my  
6 face, but they were just like this (indicating).

7 Q Okay.

8 A But --

9 Q So that's how they appeared after they were  
10 put back on your face?

11 A Right. But I'm not sure if, you know, that's  
12 the side because of the pictures, like, you can take a  
13 picture of me this way, but -- but it would come out to  
14 actually where my left is my right and my right is actually  
15 my left (indicating). So I'm assuming from the way this  
16 photo was taken, that this is my right side, my actual right  
17 side if you understand what I'm saying.

18 Q Yeah, that turns out -- that would be your  
19 left side when you turn the photograph around, so I'm --

20 A But if it's correct --

21 Q -- so that the exhibit number is in the upper  
22 right-hand side. So you're saying this isn't --

23 A No.

24 Q -- where you were struck?

25 A No. I'm saying I'm not sure. I don't know in

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1 regards to the photos if the actual side is the actual side.  
2 That's what I'm -- I -- I don't know. But looking at the  
3 photo, that's my right side.

4 Q You were struck on the left; correct?

5 A I was struck on my left?

6 Q Left side, is that what you told me?

7 A No.

8 Q You were struck on your right side?

9 A I was struck on my right. I never told you I  
10 was struck on my left.

11 Q All right, okay. Now I'm getting mixed up.

12 A All I was saying, I'm not sure how the picture  
13 is taken. Like, if you take a picture and then when you turn  
14 the picture around and you're looking at that picture,  
15 it's -- your left isn't actually your left; it is your right  
16 side. That's what I was saying.

17 Q All right. On Exhibit 1, can you identify for  
18 me where you were struck by the officer?

19 A Now, the way I'm facing, if I face this way,  
20 this would be my right. This would be my right side; correct  
21 (indicating)? Am I correct?

22 Q Yeah --

23 CORRECTIONS OFFICER: If you go like  
24 that, this is (indicating).

25 THE WITNESS: There we go. Thank you?

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1           A     That would be -- this would be my right; right  
2     (indicating)?

3                     CORRECTIONS OFFICER: Yeah.

4           A     My right. That is what I was saying. You  
5     need me to circle that?

6           Q     Please do, where you were struck.

7           A     (Witness complies.)

8           Q     Thank you. Exhibits 4 and 5 are also  
9     photographs. Do you recognize those or what's in those  
10    pictures?

11          A     Yes.

12          Q     What's in those pictures?

13          A     Myself and the police cruiser.

14          Q     That was the night of the incident?

15          A     Correct.

16          Q     And it was after the -- after the physical --  
17    after the physical incident took place between the officers  
18    and you; correct?

19          A     Correct.

20          Q     All right. Exhibit 2, same question. Was  
21    that the night of the incident? Does that depict you the  
22    night of the incident?

23          A     Yes.

24          Q     And that was also after you went to the  
25    ground?

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1 A Yes.

2 Q And after the officer struck you?

3 A Correct.

4 Q Okay. Were you claiming any injuries to the  
5 back of your head?

6 A No.

7 Q All right. Were you claiming any injuries to  
8 your wrists?

9 A No.

10 Q You talked about you had some injuries to your  
11 rib?

12 A Correct.

13 Q How long did that last after the incident?  
14 You said it took a few weeks before it showed up; right?

15 A Yeah, for my body to, you know, fully come to  
16 grips to the events from that night, yes.

17 Q Okay. So a few weeks after the incident you  
18 started feeling pain in your rib?

19 A Correct.

20 Q And how long did that last for?

21 A Still to this day.

22 Q Okay. Do you receive medical attention for  
23 that?

24 A No.

25 Q You had -- you had a prior injury though that

JENNINGS - RABELER

1 caused that?

2 A Correct.

3 Q When did that prior injury happen?

4 A 2014, maybe, I believe.

5 Q How did it come about that you injured your  
6 rib in 2014?

7 A I got into an altercation with an inmate.

8 Q So you were incarcerated at the time that it  
9 happened?

10 A Yes.

11 Q Where were you incarcerated?

12 A 2014, I believe in Cayuga.

13 Q Cayuga?

14 A Mm-hmm.

15 Q Cayuga Correctional Facility?

16 A Yes.

17 Q Just -- and then you mentioned your knee as  
18 well was the other injury, I believe?

19 A Correct.

20 Q And that started to hurt you a few weeks after  
21 the incident?

22 A Correct.

23 Q Did you have a prior injury with your knee?

24 A (Witness gesturing negatively.)

25 Q Did you -- how long did that pain last in your

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1 knee after it started to --

2 A Still to this day.

3 Q Can you describe how it feels?

4 A Bad, stiffness, a pain.

5 Q Does it stop you from walking?

6 A No.

7 Q Does it stop you -- is -- does it stop you  
8 from doing any activities that you'd formally do?

9 A To a degree.

10 Q Explain that to me.

11 A When you at the same pace, basketball, or  
12 whatever, you know, long walks.

13 Q How about your rib, does that stop you from  
14 doing things that you formally would do?

15 A Yes. Certain exercises, sleeping, you know,  
16 on my front too, or even lying on my frontal.

17 Q Are you saying you are unable to lay on your  
18 front side?

19 A I can lay down on the floor, but the pain that  
20 I would have from it, or sometimes when I stretch I, you  
21 know, it really -- it really -- it really --

22 Q Tell me what kind of pain it is. Is it a dull  
23 pain? Is it a sharp pain? What kind of pain?

24 A You said dull pain?

25 Q Yeah. What kind -- how does it feel?

JENNINGS - RABELER

1 Describe it for me.

2 A It's kind of hard to describe it, but it's a  
3 pain.

4 Q And that's another -- you haven't received any  
5 medical attention for that?

6 A No, I haven't.

7 Q Tell me, your claim was partly based on the  
8 officers having physical contact with you?

9 A Yes.

10 Q What else are you claiming was wrongful about  
11 the police conduct?

12 A The whole overall arrest. The detainment  
13 from, you know, as you can see, the way the vehicle was  
14 pulled, and I was completely blocked off. I mean, if you're  
15 going to start talking about, you know, some of my rights  
16 that I have to be free from, you know, illegal searches and  
17 seizures, like, there was no legitimate reason for them to  
18 even -- to even bother me, but if they was just inquiring,  
19 once they asked the questions, that should have been it. I  
20 mean, that's not what they did. I was pulled from my car,  
21 and I was searched illegally. My license and registration  
22 was never even ran until after I was arrested. Never had  
23 probable cause to even pull me from my car. I didn't have  
24 any outstanding warrants, or nothing. I wasn't issued any  
25 type of traffic ticket or citation, infraction, or anything

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1 in regards to further movements or even sitting in my car.  
2 There was never a reason for me to be arrested to where you  
3 were searching inside of my pockets.

4 Q Did you know those officers before?

5 A No.

6 Q So you only learned their names after the  
7 incident?

8 A Correct, after I received police reports and  
9 so forth and them coming to court and testifying.

10 Q Were you on parole at the time that incident  
11 happened?

12 A Yes, yes.

13 Q Was there anything else about the incident  
14 that concerned you that was wrongful -- that you feel was  
15 wrongful or unlawful or the way the police went about doing  
16 it or --

17 A Absolutely. From the -- from the start to  
18 finish. I mean, far as them pulling up behind my vehicle,  
19 blocking me off, for them running up to my friend,  
20 Willy Jones, and start searching him immediately while he was  
21 outside of my car -- or standing outside of my car getting  
22 ready to go in the house, go home, for no reason. He wasn't  
23 arrested, like --

24 Q Let me -- let me -- let me ask you this,  
25 because I think one of your allegations was that race may

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1 have been an issue.

2 A Absolutely.

3 Q Is that something that you're claiming?

4 A Absolutely. My neighborhood -- that  
5 neighborhood is, you know, predominantly there's a lot of  
6 African Americans that stay in that neighborhood, and there  
7 is a lot of foreigners that also moved down there too that's  
8 from Africa and, you know, there is not -- it's not that -- I  
9 mean, I may be wrong, but probably about out of that whole  
10 apartment complex as a whole, the Pioneer Homes, it may be  
11 two white people that, you know, that stay down there. But  
12 other than that, it's predominately African American, black  
13 individuals live down there.

14 Q Okay. So that is your basis for claiming that  
15 this was racially motivated, that it was a predominantly  
16 black neighborhood? Is that what -- what is the basis?

17 A Basically, I was, you know, they -- I -- they  
18 was profiling. I was profiled. I mean, I was told that  
19 there was drug activity and gang violence, that was the  
20 reason, you know, that they was trying to see what was going  
21 on and ascertain my business for being in the area once I  
22 provided them with my reasons for me being in the area.  
23 There was no reason that it should have escalated to them  
24 pulling me out of my car and searching me when I provided  
25 them with identification and gave them a legitimate reason

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1 for being there in the area in the first place.

2 Q Did they find any -- like, a scale in your  
3 vehicle? Did they find --

4 A They said they got a scale covered in cocaine  
5 out my vehicle, but I never had it. I testified to that at  
6 court. I never was charged with the criminal charge of  
7 criminal possession of drug paraphernalia in the second  
8 degree. There was never a criminal charge for it. There was  
9 never an actual laboratory test report conducted on this  
10 scale with -- for fingerprints or for the actual substance.  
11 But this is what they said their reason was for pulling me  
12 out of my car and searching me, is because they seen probable  
13 cause lying in plain view, but I was never criminally charged  
14 with it, and there is no evidence to show that what you said  
15 that it was -- cocaine was on it, was on it. There was no  
16 evidence to show this besides a scale that they did bring to  
17 court which didn't belong to me. But, I mean --

18 Q Okay. Now, the way you told me how the  
19 incident happened, at no point did you actually flee, you  
20 never ran anywhere?

21 A No. Those -- that charge was dismissed  
22 against me, resisting around, that charge was dismissed.

23 Q Were you claiming any other kinds of monetary?

24 A As far as -- at the time I lost my financial  
25 aid for school, I lost my job, you know, my family, you know,

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1 they -- you know, went through some things as well as for,  
2 you know, you money-wise to help me out with the situation,  
3 with the lawyer, with paying my rent for me at my, you know,  
4 my apartment that I had at the time. I mean, you know, I  
5 lost out on some -- I lost out on some major things, and I  
6 had just gotten approved for a two-year associate's degree at  
7 ITT Technical Institute at the time, and, you know, I lost  
8 that, you know. My car was impounded for, you know, as a  
9 result of the -- the illegal search, you know. I had to get  
10 the car from the impound. That was a couple thousand  
11 dollars. But, I mean --

12 Q Now, do you have children?

13 A Yes, I do.

14 Q How many children do you have?

15 A Two.

16 Q Was there a claim with regard to that as well?

17 A I believe so, as far as, you know, my family  
18 having to, you know, step up and, you know, help me out in  
19 regards to that, but I haven't been there for a past 15  
20 months since the arrest.

21 Q Tony, what is your date of birth?

22 A 7/18/82.

23 Q Now, originally you provided us with a HIPAA  
24 release to get your medical records from the Onondaga County  
25 Justice Center. I am going to show you that. Take a look at

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1 that, your signature. What I want to do, and you can take a  
2 look, I'm showing you another one, and the reason I'm  
3 redoing -- I'm asking you to redo the release is because --  
4 let me see here. The paralegal put this together for me.  
5 I'm marking the box "other" and putting down "medical  
6 records," and -- okay. What I'm asking you to do -- I'm  
7 showing you the release you originally signed dated  
8 December 6, 2016, and the Onondaga County Justice Center said  
9 that we would -- my understanding is what we were told --  
10 because it wasn't firsthand told to me, but that it would be  
11 faster for them to be able to produce it if you initial -- if  
12 you're willing to release your alcohol, mental health, and HIV  
13 records to us, and if you initial here, so your initials  
14 here, that was not originally initialed here (indicating) --

15 A I felt that wasn't needed in regards to, you  
16 know, my medical records.

17 Q Okay. So what you're telling me is you don't  
18 want to release these things to us?

19 A Correct.

20 Q Okay.

21 A I mean, is there a reason? Is there --  
22 what --

23 Q Well, you know, mental health records, if  
24 there's an issue with mental health, that would be -- that  
25 would be relevant in terms of determining your ability to

JENNINGS - RABELER

1 tell the truth. It could be, you know, it could be relevant  
2 for us. It's up to you. If you don't want to release those  
3 things, that's your choice.

4 A Okay.

5 Q But it won't -- we won't be able to  
6 investigate -- well, let's see here. All right. So the  
7 previous one does say -- it says, you know, you signed, it  
8 said the entire medical record, but didn't initial. So we  
9 can -- I think that's fine if that's -- that's dated  
10 December 6th, and it goes until the final disposition.

11 A Correct.

12 Q So we'll just go with that. And there was no  
13 place else -- I had additional HIPAA releases with me, but  
14 you indicated there was no other place where you received  
15 treatment?

16 A Correct.

17 Q Okay. The only place -- the only other place  
18 was for this 2014 rib incident. Do you -- will you sign a --  
19 sign a release for me for those records?

20 A It was never reported.

21 Q Your rib injury was never reported?

22 A It was never reported.

23 Q You didn't receive --

24 A No.

25 Q -- medical treatment at Cayuga for that?

JENNINGS - RABELER

1 A No.

2 Q Did you ever get x-rays to show that you had a  
3 fractured rib?

4 A Yes, I did.

5 Q Do you know where you had that done?

6 A That was -- actually, that was -- I believe it  
7 was -- no, it wasn't here. I'm not sure. I'm not sure. I  
8 can't think of it at the time -- at this time.

9 Q I think you said it was -- you thought it was  
10 in Cayuga Correctional?

11 A No, that's where the incident happened.

12 Q Okay. But you didn't receive medical  
13 treatment there?

14 A No, I didn't.

15 Q Okay. After you were released, then did you  
16 perhaps get x-rays?

17 A Yes. That's when it was, but I can't  
18 remember -- I can't remember where.

19 Q Crouse? Upstate? Was it in the City of  
20 Syracuse?

21 A It was in Syracuse, but I can't --

22 Q It was in Syracuse?

23 A Yes. I can't remember exactly where.

24 Q So Crouse Hospital? Upstate?

25 A Crouse, my mother works at Crouse.

## JENNINGS - RABELER

1 Q Was it at Crouse?

2 A No. Excuse me. Upstate -- it wasn't at  
3 Crouse or Upstate, no.

4 Q St. Joes?

5 A No. I know where all those hospitals is, no.

6 Q Okay. So you don't know where you got your --

7 A I can't remember.

8 Q -- x-rays? Okay. Is there anything else you  
9 want to add?

10 A No.

11 Q Okay.

12 A I mean, currently right now there is an open  
13 civil suit as well in -- against -- not the City, but in  
14 regards to these officers, and they've been served letters by  
15 United States Marshals in regards to a complaint that was  
16 filed federally through a 1983 as well, so ...

17 Q Okay. So you're telling me you have a federal  
18 civil rights claim out there?

19 A Correct. In regards to --

20 Q Okay. Do you have an attorney in regard to  
21 that?

22 A Not at this time, no.

23 Q Did anyone help you file those papers?

24 A I did it myself.

25 Q You did it yourself?

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1           A     Correct. But I haven't talked to, you know,  
2 family members yet since I've been here, and I'm in the  
3 process of moving at the same time, so I'm not sure if family  
4 members might have come across an attorney, but I gave them  
5 some, you know -- I mentioned some people and I believe they  
6 had a few people as well that they were going to, you know,  
7 pursue. So I'm not sure yet if -- I haven't received  
8 anything yet. Like, some of my mail is still catching up to  
9 me, you know, now that I'm here.

10           Q     Okay.

11           A     And then I'm leaving here today for tomorrow,  
12 or Sunday for Monday.

13           Q     So do you have any paperwork with you now  
14 here?

15           A     Yes, I do.

16           Q     With regard to that?

17           A     Yes, I do.

18           Q     When you get situated, can you forward that so  
19 that I can see it?

20           A     Absolutely. I was assigned two judges in  
21 regards to it. I believe it's open. It's open to where if  
22 you type in my name, it comes up online. It's open. It's  
23 not private.

24           Q     Do you know if it's Federal Court, Northern  
25 District of New York?

JENNINGS - RABELER

1           A     Northern District of New York. Magistrate  
2 Judge David Peebles and something Con --

3           Q     Is that -- are you sure this is something --  
4 this is a civil rights and not an appeal from your criminal  
5 conviction?

6           A     No, no.

7           Q     This is separate?

8           A     That's -- that's --

9           Q     That's different?

10          A     That's different. That's the public division,  
11 and I received information in regards to that yesterday, and  
12 it just caught up with me.

13          Q     Okay.

14          A     And that's active right now. They assigned  
15 it -- assigned me a case number and two judges, so it's  
16 online where you would be able to pull that information up  
17 just by punching in my name, you know, in regards to the  
18 Northern District -- the United States District Court of the  
19 Northern District of New York, that would pop up.

20                   MS. RABELER: Okay.

21                   THE WITNESS: All set?

22                   MS. RABELER: Thank you.

23                   (Whereupon the witness was excused.)

24

25

## C E R T I F I C A T I O N

I, ABBY C. KOHLER, Court Reporter and Notary Public in and for the State of New York, DO HEREBY CERTIFY that I attended the foregoing proceedings, took stenographic notes of the same, that the foregoing is a true and correct copy of same and the whole.

  
\_\_\_\_\_  
ABBY C. KOHLER, Court Reporter

Dated: April 26, 2017

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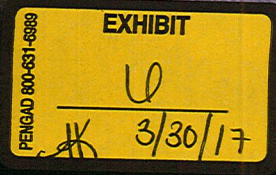
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